

CHAPTER 15 CONSUMER PROTECTION PROCEDURES ACT PROCEDURAL RULES

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1500 COMPLAINTS

- 1500.1 All complaints shall be filed with the Department of Consumer and Regulatory Affairs (DCRA), Office of Compliance, Complaint Division. The complaint shall be in writing or reduced to writing by the Director.
- 1500.2 The complaints filed with DCRA shall be reviewed by the Complaint Division as to jurisdiction, content, category, and for appropriate departmental or non-departmental referral.
- 1500.3 The Complaint Division shall review all consumer complaints filed and within sixty (60) days shall notify all parties as to the allegations and as to any action by the Division.

AUTHORITY: Unless otherwise noted, the authority for this chapter is §4(10) of the D.C. Consumer Protection Procedures Act, D.C. Law 1-76, D.C. Code §28-3901 *et seq.* (1981).

SOURCE: Final Rulemaking published at 33 DCR 6176 (October 10, 1986).

EDITOR'S NOTE: Section 812 of D.C. Law 11-52 amended the Automobile Consumer Protection Act of 1984 by suspending enforcement of this chapter by the Department of Consumer and Regulatory Affairs until October 1, 1998 (D. C. Code §28-3902).

1501 COMPLAINT DIVISION MEDIATION

1501.1 If an illegal trade practice has been alleged, the Complaint Division shall attempt to contact the respondent in an effort to settle the dispute through mediation.

1501.2 If mediation fails, the Complaint Division shall transmit the case file with all data to the Division of Investigation, Office of Compliance, DCRA. If an investigation is not required, the Complaint Division may refer the matter to the Division of Enforcement, Office of Compliance, DCRA for appropriate action.

SOURCE: Final Rulemaking published at 33 DCR 6176 (October 10, 1986).

1502 DIVISION OF INVESTIGATION REFERRALS

1502.1 The Division of Investigation shall review and investigate cases referred by the Complaint Division to further substantiate trade practice violations and other statutory violations.

1502.2 Upon completion of its investigation, the Division of Investigation shall submit its written findings and all other pertinent documents of the case file to the Division of Enforcement.

SOURCE: Final Rulemaking published at 33 DCR 6176 (October 10, 1986).

1503 DIVISION OF ENFORCEMENT REFERRALS

1503.1 The Division of Enforcement shall review referrals from the Division of Investigation for legal and factual sufficiency.

1503.2 If the Division of Enforcement determines that factual information contained in a case file supports a violation of the Consumer Protection Procedures Act or other statutes, the Division of Enforcement shall retain the case for appropriate action within the Office of Compliance. If additional data is needed, then the case shall be referred back to the Division of Investigation for the additional information.

1503.3 The Division of Enforcement shall dismiss cases outside the Act's jurisdiction.

1503.4 The Division of Enforcement, after review of the case before it, may attempt further settlement negotiations if feasible, or file a petition to bring the matter before the Administrative Law Judge.

- 1503.5 A petition filed with the Administrative Law Judge shall be filed within one hundred eighty (180) days after the complaint is filed with the Department, absent good cause, for such delay as determined by the Administrative Law Judge.

SOURCE: Final Rulemaking published at 33 DCR 6176, 6177 (October 10, 1986).

1504 JOINDER

- 1504.1 The Director may join several cases against a single respondent or group of respondents in one petition if the Director determines that the various cases to be joined involve the following:

- (a) The same or similar unlawful trade practices;
- (b) Tend to show a pattern of unlawful conduct; or
- (c) Otherwise involve common issues of law or fact.

- 1504.2 The Administrative Law Judge may disallow joinder if the following determination is made:

- (a) That the joinder is improperly prejudicial to either party;
- (b) That the joinder is administratively burdensome; or
- (c) That the joinder is otherwise unreasonable.

SOURCE: Final Rulemaking published at 33 DCR 6176, 6177 (October 10, 1986).

1505 COMPUTATION OF TIME

- 1505.1 In computing the periods of time under this chapter, the day of the act or event shall not be counted and the last day of the period shall be counted, unless it is a Saturday, Sunday, or legal holiday, in which event the time period continues until the next day which is not a Saturday, Sunday, or legal holiday.

- 1505.2 When the period of time for computation is less than seven (7) days, Saturdays, Sundays, and legal holidays shall not be included in the computation of time.

- 1505.3 Legal holidays shall include New Year's Day, Martin Luther King Day, Washington's Birthday, Veteran's Day, Thanksgiving Day, Christmas Day and any other day appointed as a holiday by the President or the Congress of the United States or by the Mayor of the District of Columbia (on the actual day the legal holiday is celebrated by the government of the District of Columbia).

- 1505.4 Whenever a party has the right or is required to do some act within a prescribed period after the service of a notice of paper upon that party by mail, three (3) days shall be added to the prescribed time period.

SOURCE: Final Rulemaking published at 33 DCR 6176, 6177 (October 10, 1986).

1506 SERVICE

- 1506.1 Each paper required to be filed with the Office of Adjudication shall be served on all parties by the party filing the papers.
- 1506.2 If a party has retained an attorney as provided in §§1520.1 and 1520.2, all papers except the petition (§1509) and subpoena (§1507) shall be served on that attorney in place of the party.
- 1506.3 The Director shall serve petitions or subpoenas in the manner set forth in the Superior Court for the District of Columbia Rules of Civil Procedure for personal service (Rule 4(d)).
- 1506.4 Service of papers other than the petition or subpoenas may be made in accordance with §1506.3 or by delivering a copy to the party or by mailing it to the party at his or her last known address.
- 1506.5 Service of papers other than subpoenas or petitions shall be considered complete when mailed postage prepaid U.S. first-class mail.
- 1506.6 Proof of service of each document filed with the Office of Adjudication, stating the name and address of the person served and the manner and date of service, shall be filed with the Office of Adjudication, and may be made by any of the following methods:
- (a) Written acknowledgement of the party served;
 - (b) The certificate of the attorney of record if the attorney has made service;
 - (c) The certificate of the person making the service; or
 - (d) Any method prescribed by the Superior Court's Rules of Civil Procedure for return of service (Rule 4(g)).
- 1506.7 Appearance at the hearing by a party served with a petition shall establish proper service of the petition, unless the appearance is solely for the purpose of arguing the issue of the validity of service.

SOURCE: Final Rulemaking published at 33 DCR 6176, 6178 (October 10, 1986).

1507 SUBPOENAS

- 1507.1 With or after the filing of a petition with the Office of Adjudication, any party may serve a subpoena issued by the Office of Adjudication upon any other party, a witness, or a person holding relevant documents. The party served shall have five (5) days (from receipt of the subpoena) to respond.

- 1507.2 Approval of a deposition by the Office of Adjudication, pursuant to §1515 of this chapter, shall constitute sufficient authorization for the service of a subpoena for attendance at a deposition. The subpoena shall be in the name of the Office of Adjudication, upon forms made available by the Office of Adjudication.
- 1507.3 The appearance or presentation pursuant to that subpoena may be at a hearing before the Office of Adjudication, or prior thereto at any reasonable place in the District of Columbia with at least six (6) days notice to all parties and the Office of Adjudication.
- 1507.4 Upon motion, the Office of Adjudication may require the party on whose behalf the subpoena is issued to pay the reasonable cost of document production, witness fees, or both.
- 1507.5 Any person upon whom a subpoena has been served may seek by written motion to have the subpoena quashed or limited. That motion shall state the ground on which it is based and shall be filed within five (5) days of service of the subpoena.
- 1507.6 A subpoena may be quashed or limited on any of the following grounds:
- (a) The subpoena is overbroad;
 - (b) The evidence sought through the subpoena is irrelevant to the case;
 - (c) The subpoena would violate a legally recognized privilege; or
 - (d) Lack of jurisdiction, improper service, or other procedural defect.
- 1507.7 At the request of any party, subpoenas for attendance at a hearing shall be issued by the Office of Adjudication.

SOURCE: Final Rulemaking published at 33 DCR 6176, 6178 (October 10, 1986).

1508 FILING PAPERS

- 1508.1 Each paper shall be signed and filed by each party with the Office of Adjudication, DCRA, 614 H Street, N.W., Washington, D.C. 20001, or at any other place designated by a notice published in the *D.C. Register*.
- 1508.2 Papers may be filed Monday through Friday, except on legal holidays, from 8:30 a.m. until 4:30 p.m.
- 1508.3 Papers shall be typed and double-spaced (or space and a half) on opaque white paper, either 8½ in. x 14 in., 8½ in. x 13 in., or 8½ in. x 11 in.
- 1508.4 Each paper shall contain the caption or name of the case and the docket number.
- 1508.5 Where a party exercise the right to retain counsel, the attorney employed shall include his or her name, address, and phone number in the first document filed by that party after retaining counsel. If no additional documents are to be filed,

then the attorney shall file with the Office of Adjudication a notice of appearance, including the attorney's name, address, and phone number as soon as possible.

SOURCE: Final Rulemaking published at 33 DCR 6176, 6178 (October 10, 1986).

1509 PETITIONS AND SUMMONSES

- 1509.1 If the Director is unable, after a good faith effort to settle a case or cases, the Director shall initiate a proceeding before the Office of Adjudication by filing a petition. The petition and a summons, issued by the Office of Adjudication, shall be served upon each respondent in accordance with §1506 of this chapter.
- 1509.2 A summons shall contain at least the following information and instructions:
- (a) The name, address, and phone number of the Office of Adjudication, and the caption or name of the case and the docket number;
 - (b) An instruction requiring the respondent to answer the petition, including the address where the respondent should file his or her answer;
 - (c) Notice of respondent's right to obtain counsel;
 - (d) Notice of the possibility of a default judgment in the event that the respondent fails to answer the petition or appear at the hearing;
 - (e) The statutory authority for the summons;
 - (f) The time, and place of the hearing; and
 - (g) The signature of the clerk of the Office of Adjudication and the official seal of the Office of Adjudication.
- 1509.3 The Office of Adjudication shall notify all parties of a change in a scheduled hearing date by telephone or in writing.
- 1509.4 The Office of Adjudication shall prepare a summons for each respondent named in the petition and shall return the original summonses to the petitioner for service of process.
- 1509.5 The petition shall contain the following information:
- (a) A short, concise statement of the legal and factual basis for jurisdiction of the Office of Adjudication over the subject matter of the case and over the parties;
 - (b) The names and addresses of all parties to the action;
 - (c) A short, concise statement of the facts and grounds on which relief is sought; and
 - (d) A prayer for relief.

- 1509.6 The Director shall attach to the petition a list of all parties on whom answers, motions, and other papers are to be served, and a copy of the original complaint form(s) filed with DCRA.
- 1509.7 The petition may contain multiple grounds or counts. These counts may be in the alternative and may be inconsistent with each other.
- 1509.8 Fraud and mistake shall be pleaded with specific supporting facts.

SOURCE: Final Rulemaking published at 33 DCR 6176, 6180 (October 10, 1986).

1510 ANSWERS AND MOTIONS

- 1510.1 Within fifteen (15) days of service of the petition, respondent shall answer the petition. An answer shall admit or deny each allegation in the petition, and set forth any defense. If the respondent fails to answer the petition within the allocated time, the Office of Adjudication may hold that respondent to have admitted all allegations raised in the petition and may enter an order in favor of the Petitioner.
- 1510.2 If the Office of Adjudication holds that all allegations raised in the petition are admitted in accordance with §1510.1, the respondent may request by motion that the case be reopened to allow the respondent to answer the petition. The motion may only be considered when filed within fifteen (15) days of the date on which the Office of Adjudication holds such allegations as admitted. The Office of Adjudication may grant these motions only under extraordinary circumstances.
- 1510.3 Parties, witnesses and other persons may file appropriate motions, including motions to intervene or to join another person to the action.

SOURCE: Final Rulemaking published at 33 DCR 6176, 6181 (October 10, 1986).

1511 DISCOVERY

- 1511.1 Parties may obtain discovery by the following methods:
- (a) Written interrogatories;
 - (b) Requests for production of documents or other items, or permission to enter land or other property for inspection and other lawful purposes;
 - (c) Requests for admissions; and
 - (d) Depositions.
- 1511.2 Discovery may be obtained without permission of the Office of Adjudication except as otherwise provided in §§1511 through 1516.
- 1511.3 All discovery shall be completed at least five (5) days prior to the hearing.

- 1511.4 The Office of Adjudication may set a schedule or otherwise regulate discovery either at the request of the parties or on its own motion. The Office of Adjudication, in regulating discovery, shall not allow excessive, unnecessary, harassing, and unduly expensive discovery and attempts to delay or impede the hearing.

SOURCE: Final Rulemaking published at 33 DCR 6176, 6180 (October 10, 1986).

1512 INTERROGATORIES

- 1512.1 Any party may serve upon any other party written interrogatories or questions to be answered by the party served or, if the party served is a public or private corporation, a partnership, association, or governmental agency, by an officer or agent, who shall furnish such information as is available to the party.
- 1512.2 A party may serve more than thirty (30) interrogatories (each subpart counting as a separate interrogatory) on a given party in a case only with the permission of the Office of Adjudication.
- 1512.3 The responding party shall, in writing, answer the interrogatories in the following manner:
- (a) Copy in order each interrogatory; and
 - (b) Immediately following each interrogatory, give the answer thereto fully or, if objected to, the grounds for the objection.
- 1512.4 The answer shall be signed by the answering party, and the objections shall be signed by the objecting party or counsel for the party.
- 1512.5 The party upon whom the interrogatories have been served shall have twenty (20) days in which to answer. Any party who fails to object to an interrogatory within twenty (20) days from the date of service, waives his or her right to object to the interrogatory except in extraordinary circumstances as determined by the Office of Adjudication.
- 1512.6 The party serving the interrogatories may file a written response to any objections to the interrogatories no more than five (5) days after service of the objection to interrogatories.
- 1512.7 If the party served with the interrogatories fails to answer within the twenty (20) day period, the serving party may file a motion with the Office of Adjudication to compel the served party to answer.
- 1512.8 If the Office of Adjudication compels the party to whom the interrogatories are directed to answer the interrogatories, that party shall have ten (10) days from receipt of the Office of Adjudication order in which to do so.
- 1512.9 All interrogatories shall be served at least twenty-five (25) days prior to the date scheduled for the hearing.

SOURCE: Final Rulemaking published at 33 DCR 6176, 6181 (October 10, 1986).

1513 REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS AND ENTRY UPON LAND FOR INSPECTION AND OTHER PURPOSES

1513.1 Any party may serve on any other party a request to produce and permit the party making the request, or someone acting on his or her behalf, the following:

- (a) To inspect and copy any designated documents;
- (b) To inspect and copy, test or sample any tangible things which constitute or contain matters relevant to the action and which are in the possession, custody or control of the party upon whom the request is served; or
- (c) To enter upon the party the land or other property in the possession or control of the party upon whom the request is served for the purpose of inspecting, and measuring, surveying, photographing, testing, or sampling the property or any designated object or operation thereon within the scope of the action.

1513.2 The request shall describe the items to be inspected, either by individual items or by category.

1513.3 The request shall specify a reasonable time, place and manner of making the inspection and performing the related acts. For purposes of this section, "Reasonable time" shall not be less than twenty-one (21) days from the service of the request.

1513.4 The party upon whom the request is served shall serve a written response within twenty (20) days after service of the request.

1513.5 The response shall state, with respect to each item or category, that the inspection and related activity shall be permitted as requested, unless the request is objected to, in which case the reason for the objection shall be stated.

1513.6 The party requesting to copy any discoverable matter shall bear the cost for reproduction and related costs.

SOURCE: Final Rulemaking published at 33 DCR 6176, 6183 (October 10, 1986).

1514 REQUESTS FOR ADMISSION

1514.1 A party may serve upon any other party a written request for an admission, for the purposes of the pending action only, of the truth of any matters set forth in the request that relate to statements of fact or opinions, or of the application of law to fact, including the genuineness of any documents described in the request.

1514.2 Copies of documents which are being requested to be admitted shall be served with the request unless they have been or are otherwise furnished or made available for inspection and copying.

- 1514.3 Each matter for which an admission is requested shall be separately set forth.
- 1514.4 The matter shall be admitted unless, within twenty (20) days after service of the request, the party to whom the request is directed files a written answer or objection addressed to the matter. The answers or objections shall be signed by the party or his or her attorney.
- 1514.5 Detailed reasons shall be stated for any objection made.
- 1514.6 The answer shall specifically admit or deny the matter, or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter.
- 1514.7 An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless he or she states that he or she has made reasonable inquiry and that the information known or readily made obtainable by him or her is insufficient to enable him or her to admit or deny the matter. The statement shall be supported by an affidavit setting out the efforts that were made to locate the needed information.
- 1514.8 A party who considers that a matter for which an admission has been requested presents a genuine issue for trial may not, on that ground alone, object to the request. The party may deny the matter or set forth reasons why the matter cannot be admitted or denied.

SOURCE: Final Rulemaking published at 33 DCR 6176, 6183 (October 10, 1986).

1515 DEPOSITIONS

- 1515.1 A party may take a deposition only with permission from the Office of Adjudication.
- 1515.2 The Office of Adjudication shall grant permission to take a deposition only where the information sought is not otherwise available or the Office of Adjudication determines that justice will be served only if the party is allowed to take the deposition.
- 1515.3 When the Office of Adjudication grants permission to depose, it shall prescribe the procedures governing each deposition. These procedures shall set forth at least the following:
- (a) Procedures for giving notices of the deposition;
 - (b) Procedures for examination and cross-examination of witnesses; and
 - (c) Limitations on the scope of the examination.
- 1515.4 Depositions shall be taken before a person authorized to administer oaths.
- 1515.5 Depositions may be recorded by non-stenographic means, subject to any rules prescribed by the Office of Adjudication under §1521, to assure the accuracy of the record.

SOURCE: Final Rulemaking published at 33 DCR 6176, 6184 (October 10, 1986).

1516 SANCTIONS FOR FAILURE TO MAKE DISCOVERY

- 1516.1 If a party from whom discovery is sought fails to comply with the request, the Office of Adjudication, upon motion from the party seeking discovery, may issue an order compelling discovery.
- 1516.2 The Office of Adjudication may grant or deny a motion to compel discovery, and in its discretion, award reasonable compensation to either party incurring expenses related to the motion or the discovery process.
- 1516.3 If a party fails to honor an order to compel discovery, the Office of Adjudication may enter an order employing any of the following sanctions:
- (a) Holding that the matters in regard to which the order to compel discovery was made, or any other designated facts are established, for the purposes of the action, in accordance with the claim of the party obtaining the order;
 - (b) Refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting him or her from introducing designated matters into evidence;
 - (c) Holding that, with respect to matters in regard to which the order to compel discovery was made or any other designated fact, inferences will be drawn adverse to the person or party refusing to obey the order to compel discovery;
 - (d) Striking out pleadings or parts thereof;
 - (e) Staying further proceedings until the order is obeyed;
 - (f) Dismissing the action or any part thereof; or
 - (g) Rendering a judgment against the disobedient party.

SOURCE: Final Rulemaking published at 33 DCR 6176, 6185 (October 10, 1986).

1517 PRE-HEARING SETTLEMENT CONFERENCES AND CONSENT DECREES

- 1517.1 The Office of Adjudication may, without delaying its hearing or decision, attempt to settle a case, and may permit any stipulation or consent decree the parties agree upon.
- 1517.2 Approval by the Office of Adjudication shall be required for any consent decree among the parties entered into at any time after the filing of a petition in accordance with §1503.4.

- 1517.3 A consent decree may order redress through contract damages, restitution of money, time, property or other value received from the consumer by the respondent, or through rescission, reformation, repair, replacement or other just method.
- 1517.4 A consent decree may require the respondent to pay the Department its costs for investigation, negotiation, and hearing.
- 1517.5 If a settlement is reached five (5) or more days prior to the hearing date, the Office of Adjudication, at its option, may waive all costs involved in investigation and negotiation.
- 1517.6 The Office of Adjudication, in its discretion, upon its own motion or at the request of one (1) or more parties, may hold a prehearing conference to consider the following:
- (a) The simplification of issues;
 - (b) The necessity or desirability of amendments to the pleadings;
 - (c) The possibility of obtaining admissions of fact and of the genuineness of documents which will avoid unnecessary proof; or
 - (d) Any other matters as may aid in the disposition of the action.
- 1517.7 The pre-hearing conferences may be called with notice of five (5) days or more to the parties.

SOURCE: Final Rulemaking published at 33 DCR 6176, 6185 (October 10, 1986).

1518 CONDUCT OF HEARINGS

- 1518.1 Hearings shall be conducted as adjudicatory proceedings.
- 1518.2 Parties have the right to present their cases or defenses in person or by counsel, by oral and documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for full and true disclosure of facts.
- 1518.3 Procedurally, a complainant's case shall be presented first, and the respondent's case shall follow.

SOURCE: Final Rulemaking published at 33 DCR 6176, 6186 (October 10, 1986).

1519 EVIDENCE

- 1519.1 The Office of Adjudication shall follow the evidentiary rules of §10 of the District of Columbia Administrative Procedures Act, 82 Stat. 1208, as amended, D.C. Code §1-1509 (1981).

SOURCE: Final Rulemaking published at 33 DCR 6176, 6186 (October 10, 1986).

1520 RIGHT TO COUNSEL

- 1520.1 Each party has the right to retain his or her own counsel. The role at the hearing of counsel retained by the complainant shall be determined by the Office of Adjudication.
- 1520.2 The Director shall designate a representative to serve as counsel for the Department in each matter brought before the Office of Adjudication.
- 1520.3 The Director shall designate a second or third-year law student (under the supervision of an Attorney Advisor within the Office of Compliance of the Department) to serve as counsel for the Complainant.
- 1520.4 The Director may designate non-agency counsel to bring action and serve as counsel for the complainant.

SOURCE: Final Rulemaking published at 33 DCR 6176, 6187 (October 10, 1986).

1521 RECORD OF PROCEEDINGS

- 1521.1 Hearings shall be recorded by electronic or stenographic means, but transcriptions shall be made only if specifically requested by one (1) of the parties or other persons, or the Office of Adjudication.
- 1521.2 The testimony and exhibits, together with all papers filed in the proceeding, and materials or acts not appearing in evidence but with respect to which judicial notice is taken, shall constitute the exclusive record for the Decision and Order.
- 1521.3 The cost of preparation of a transcript of the record or a portion thereof shall be borne equally by all parties (and other persons) requesting the copy or copies.

SOURCE: Final Rulemaking published at 33 DCR 6176, 6187 (October 10, 1986).

1522 DECISION AND ORDER OF THE OFFICE OF ADJUDICATION

- 1522.1 The Decision and Order of the Office of Adjudication shall be in writing, shall be issued no later than ninety (90) days from the date the hearing is completed of the hearing record is closed, whichever is later, and shall include, or be accompanied by, written findings of fact and conclusions of law.
- 1522.2 The Decision and Order shall be served on all parties, pursuant to §1506.1 of this chapter.

SOURCE: Final Rulemaking published at 33 DCR 6176, 6187 (October 10, 1986).

1523 PETITIONER'S COSTS FOR INVESTIGATING, NEGOTIATING, AND HEARING

1523.1 If, as part of the Decision and Order, a respondent is required to pay the Department's costs for investigation, negotiation, and hearing, that cost shall be established as follows:

- (a) Petitioner shall file with the Office of Adjudication within fourteen (14) days after issuance of the Order of a document setting forth its costs;
- (b) Petitioner shall serve the documented proof of Petitioner's costs to the respondent by the United States first class postage prepaid mail or hand delivered;
- (c) Respondent shall have ten (10) days from receipt of Petitioner's costs to file any objections; and
- (d) The Office of Adjudication shall decide which costs shall be paid by the respondent.

1523.2 Absent a finding by the Office of Adjudication of good cause for delay, Petitioner's failure to file proof of costs within the specified period shall be deemed a waiver of such costs.

SOURCE: Final Rulemaking published at 33 DCR 6176, 6187 (October 10, 1986).

1524 EMERGENCY PROCEEDINGS

1524.1 The Director may file with the Office of Adjudication a "motion for emergency relief" against a respondent for the purpose of seeking a provisional remedy.

1524.2 The Administrative Law Judge may grant an Emergency Order without written or oral notice to the respondent or his or her attorney only if the following occurs:

- (a) It appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury, loss, or damage will result to the complainant before the respondent or his or her attorney can be heard in opposition; and
- (b) The Director certifies to the Office of Adjudication in writing the efforts, if any, which have been made to give the notice and the reasons supporting the claim that notice should not be required.

1524.3 Every Emergency Order granted without notice shall meet the following requirements:

- (a) Be endorsed with the date and hour of issuance;
- (b) Be filed forthwith in the Office of Adjudication and entered of record;

- (c) Define the injury and state why it is irreparable and why the order was granted without notice; and
- (d) Expire by its terms within such time after entry not to exceed ten (10) days, as the Office of Adjudication specifies, unless within such time so specified in the order, for good cause shown, is extended for a like period or unless the party against whom the order is directed consents that it may be extended for a longer period.

1524.4 In case an Emergency Relief Order is granted without notice, the motion for an Emergency Relief Order shall be set for hearing at the earliest possible time and take precedence of all matters except older matters of the same character; and when the motion comes on for hearing the party who obtained the Emergency Relief Order shall proceed with the application for permanent relief, and if he or she does not do so, the Office of Adjudication shall dissolve the Emergency Order.

1524.5 On two (2) days notice to the party who obtained the Emergency Relief Order without notice or such shorter notice to that party as the Office of Adjudication may prescribe, the respondent may appear and move its dissolution or modification and in that event the Office of Adjudication shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

SOURCE: Final Rulemaking published at 33 DCR 6176, 6188 (October 10, 1986).

1525 ENLARGEMENT OF TIME

1525.1 Unless otherwise provided in this chapter or by statute, the Office of Adjudication may, for good cause, extend any time limit set forth in this chapter.

SOURCE: Final Rulemaking published at 33 DCR 6176, 6189 (October 10, 1986).

1526 SEAL AND PROCESS

1526.1 The seal of the Office of Adjudication shall be in the custody of the clerk and shall be used to authenticate all process, orders and proceedings in the Office of Adjudication official transcripts thereof, and all other papers or documents requiring authentication.

SOURCE: Final Rulemaking published at 33 DCR 6176, 6189 (October 10, 1986).

1527 BINDING EFFECT OF ORDER

1527.1 A Decision and Order of the Office of Adjudication shall be binding only upon the parties to the action, their officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise.

SOURCE: Final Rulemaking published at 33 DCR 6176, 6189 (October 10, 1986).

1528 DELEGABLE AND NON-DELEGABLE POWERS OF THE OFFICE OF ADJUDICATION

1528.1 Except as noted in §1528.2, all functions of the Office of Adjudication are to be performed personally by the Administrative Law Judge (ALJ). The following powers shall be nondelegable:

- (a) Presiding over hearings;
- (b) Admitting evidence;
- (c) Ruling on motions; and
- (d) Rendering final decisions in a case.

1528.2 The staff of the Office of Adjudication may perform the following functions:

- (a) Receive papers for filing;
- (b) Issue summonses;
- (c) Maintain the calendar for the Office of Adjudication;
- (d) Perform internal administrative functions of the Office of Adjudication;
- (e) Contact the parties when necessary concerning changes in schedules; and
- (f) Exercise any other powers or duties delegated by the ALJ.

SOURCE: Final Rulemaking published at 33 DCR 6176, 6189 (October 10, 1986).

1599 DEFINITIONS

1599.1 When used in this chapter, the following terms and phrases shall have the meanings ascribed:

Act - the D.C. Consumer Protection Procedures Act, D.C. Code §28-3901 *et seq.*, (1981).

ALJ - the Administrative Law Judge for the D.C. Department of Consumer and Regulatory Affairs.

Case - the formal proceedings initiated by the filing of a complaint and terminated either by settlement between the parties and Director or by a decision issued by the Office of Adjudication.

Complainant - a person, or his or her representative, who participated as a consumer in a trade practice about which a complaint is filed.

Complaint - a formal request for assistance filed by a complainant and directed to the Department.

Consent Decree - an agreement entered into by all parties to resolve a complaint either before, during or after a hearing.

Court of Appeals - District of Columbia Court of Appeals.

D.C. - the District of Columbia.

DCRA or Department - the D.C. Department of Consumer and Regulatory Affairs.

Director - the Director of the Department of Consumer and Regulatory Affairs.

Division of Enforcement - the Division of the Office of Compliance responsible for filing petitions.

Division of Investigation - the Division of the Office of Compliance responsible for investigating consumer complaints.

Fraud - misrepresentation of a present or past fact made by a respondent, with action in reliance thereupon by the complainant from such misrepresentation. This misrepresentation need not be communicated orally but can be such as to lead a reasonable person to believe such facts exist.

Mediation - to clear up misunderstandings, determine underlying concerns, find areas of agreement and, ultimately, incorporate these agreements into solutions created by the parties themselves.

Mistake - can be either of fact or of law, and exists when a person under some erroneous conception of law or fact does or omits some act which, but for the erroneous conception, he or she would not have done or omitted. Mistake of fact or law, other than mutual mistake, is not a defense.

Office of Compliance - is the unit within the Department of Consumer and Regulatory Affairs which provides investigatory and enforcement activities based upon complaints received by the Department.

Order - Decision and Order - the judgment rendered by the ALJ after a hearing has been held.

Party - the Department as Petitioner, the Respondent, the Complainant, or any person who has been permitted by the Office of Adjudication to intervene in the proceeding before the ALJ, or has been joined in the proceeding by the Office of Adjudication.

Person - an individual, firm, corporation, partnership, cooperative, association, or any other organization, legal entity, or group of individuals however organized.

Petition - a request for a hearing before, and a demand that remedies be ordered by, the ALJ.

Petitioner - the Department when it has requested a hearing before, and a demand that remedies be ordered by, the ALJ.

Superior Court - the Superior Court for the District of Columbia.

SOURCE: Final Rulemaking published at 33 DCR 6176, 6190 (October 10, 1986).